

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**CR. No. 15-1889 JCH**

**RAYMOND MOYA,**

**Defendant.**

**MEMORANDUM OPINION AND ORDER**

This matter is before the Court on the *United States' Motion to Seal Part of Order* [Doc. 292], to which Defendant has filed a response [Doc. 293]. In the motion, the Government requests that the Court's Memorandum Opinion and Order entered March 28, 2019 [Doc. 290] be sealed, either in whole or in part. For the reasons set forth below, the motion will be denied.

The common law and the Constitution afford the public a qualified right of access to judicial records and proceedings. *Nixon v. Warner Comms., Inc.*, 435 U.S. 589, 597-98 (1978). Under Section 9(h)(1) of this District's CM/ECF Administrative Procedures Manual, which is available on the Court's website under the "Attorneys" tab,

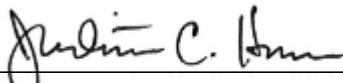
CM/ECF allows for various levels of restricted access to documents filed with the Court. It is the Participant's duty to ensure the appropriate access restriction level for the document being filed. Participant must also ensure that permission of the Court to restrict access to the filing has been granted. Leave of Court is not required to file documents sealed under Fed. R. Civ. P. 5.2(f), Fed. R. Crim. P. 49.1(f), or statute.

It appears that neither Fed. R. Civ. P. 5.2(f) nor Fed. R. Crim. P. 49.1(f) applies in this instance. Further, the Government has cited no statutory or other legal authority under which the Court's

Memorandum Opinion and Order should be sealed. The Court is aware of none, and therefore the document will not be sealed.

The Government's motion brings into focus a larger issue in this case, which is the fact that both the Government and the Defendant in this case have repeatedly filed motions and briefs under seal without leave of court and without the proper authority as outlined above. The fact that a pleading discusses some unpleasantness that may be unflattering to a party, witness, or victim is not by itself grounds to seal that document.

**IT IS THEREFORE ORDERED** that *United States' Motion to Seal Part of Order* [Doc. 292] is **DENIED**.



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UNITED STATES DISTRICT JUDGE